

HOUSE BILL NO. 181

INTRODUCED BY B. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION AND CERTIFICATION OF PERSONS AND ENTITIES THAT EUTHANIZE ANIMALS; ALLOWING A CERTIFIED AGENCY TO APPLY FOR REGISTRATION TO POSSESS CONTROLLED SUBSTANCES FOR THE PURPOSE OF EUTHANIZING ANIMALS; ALLOWING A CERTIFIED EUTHANASIA TECHNICIAN TO ADMINISTER CONTROLLED SUBSTANCES UNDER THE AGENCY'S LAWFUL POSSESSION WHEN THE AGENCY AND TECHNICIAN ARE CERTIFIED BY THE BOARD OF VETERINARY MEDICINE; PROVIDING AN EXEMPTION FOR CERTIFIED AGENCIES ~~AND~~, CERTIFIED EUTHANASIA TECHNICIANS, AND SUPPORT PERSONNEL FROM OVERSIGHT BY THE BOARD OF PHARMACY WHEN POSSESSING OR ADMINISTERING APPROVED CONTROLLED SUBSTANCES FOR EUTHANASIA; PROVIDING AN EXEMPTION TO THE PRACTICE OF VETERINARY MEDICINE FOR CERTIFIED AGENCIES AND CERTIFIED EUTHANASIA TECHNICIANS WHO ARE CONDUCTING ANIMAL EUTHANASIA; AMENDING SECTIONS 37-7-103 AND 37-18-104, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 6] is to provide the most humane disposition possible of unwanted, stray, abandoned, ~~suffering~~, discarded, ~~diseased~~, or dangerous animals by providing for the certification of agencies and euthanasia technicians.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Certified agency" means a law enforcement agency, a public or private animal control agency, or a humane society organized for the prevention of cruelty to animals that has certification from the board to possess controlled substances approved for the purpose of euthanasia.

(2) "Certified euthanasia technician" means an employee of a certified agency or a person who is working under the supervision of a licensed veterinarian and who has been certified by the board to administer a controlled substance approved by the board for the purpose of euthanasia.

(3) "Controlled substance" means any substance designated as a dangerous drug pursuant to Title 50, chapter 32, parts 1 and 2.

(4) "Euthanasia" means the act or practice of ending the life of an animal in order to end suffering or for some other humane purpose.

(5) "Person" means an individual, corporation, partnership, government or governmental subdivision or agency, trust, or any other legal entity.

NEW SECTION. Section 3. Powers of board -- euthanasia certification. The board may:

(1) establish qualifications and prescribe the application format for certification as a certified agency or as a certified euthanasia technician and review each application for compliance with certification requirements;

(2) examine and determine the qualifications and fitness of applicants to operate as a certified agency or as a certified euthanasia technician;

(3) issue, renew, reinstate, deny, suspend, require voluntary surrender of, or revoke any certifications or temporary permits or impose other forms of discipline and enter into consent agreements and negotiated settlements with certified agencies or certified euthanasia technicians consistent with the provisions of this chapter and rules adopted pursuant to Title 37, chapter 1, and this chapter;

(4) establish a schedule of fees for certifying agencies and euthanasia technicians, ensuring that the fees are commensurate with the costs of the certification program;

(5) establish a list of controlled substances approved for the purpose of euthanasia;

(6) adopt other rules that the board or department consider necessary for the implementation of [sections 1 through 6]; and

(7) inspect any certified agency's controlled substance storage, inventory, administration procedures, and recordkeeping.

NEW SECTION. Section 4. Certified agency -- duties. (1) A person may not possess controlled substances for the purpose of euthanasia without first becoming a licensed veterinarian or a certified agency under rules adopted by the board.

(2) Certified agencies shall apply for registration with the applicable state or federal agency to possess controlled substances approved by the board for purposes of euthanasia.

(3) Certified agencies shall comply with all state and federal laws regarding the storage, care, and

administration of controlled substances. Failure to comply with these laws may result in the immediate revocation of the certification in addition to any other civil or criminal penalties provided under any other statute.

NEW SECTION. Section 5. Certified euthanasia technician. (1) A person may not administer controlled substances for euthanasia purposes unless the person is a licensed veterinarian, ~~or~~ a certified euthanasia technician, ~~OR SUPPORT PERSONNEL~~ as defined by rules adopted by the board.

(2) A certified euthanasia technician may use controlled substances ONLY for euthanasia purposes ~~only~~ if UNLESS the certified euthanasia technician is under the direct supervision of a licensed veterinarian.

NEW SECTION. Section 6. Disposition of fees. Any fees collected under [sections 1 through 6] must be deposited in a state special revenue account to offset costs incurred by the board or department in carrying out [sections 1 through 6].

Section 7. Section 37-7-103, MCA, is amended to read:

"37-7-103. Exemptions. Subject only to 37-7-401 and 37-7-402, this chapter does not:

(1) subject a person who is licensed in this state to practice medicine, dentistry, or veterinary medicine to inspection by the board, prevent the person from compounding or using drugs, medicines, chemicals, or poisons in the person's practice, or prevent a person who is licensed to practice medicine from furnishing to a patient drugs, medicines, chemicals, or poisons that the person considers proper in the treatment of the patient;

(2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

(3) prevent the sale of drugs, chemicals, or poisons ~~either~~ at either wholesale or retail for use for commercial purposes or in the arts; ~~or~~

~~(4) changes change~~ any of the provisions of this code relating to the sale of insecticides and fungicides;

~~(5) and does not~~ prevent the sale of common household preparations and other drugs if the stores selling them are licensed under the terms of this chapter;

~~(4)(6)~~ apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature for use for nonmedicinal purposes;

~~(5)(7)~~ prevent a registered nurse employed by a family planning clinic under contract with the department of public health and human services from dispensing factory prepackaged oral contraceptives if the

1 dispensing is in accordance with a physician's written protocol specifying the circumstances under which
2 dispensing is appropriate and is in accordance with the ~~board of pharmacy's~~ board's requirements for labeling,
3 storage, and recordkeeping of drugs; or

4 (8) prevent a certified agency from possessing, or a certified euthanasia technician OR SUPPORT
5 PERSONNEL under the supervision of the employing veterinarian from administering, any controlled substance
6 authorized by the board of veterinary medicine for the purpose of euthanasia pursuant to [sections 1 through
7 6]."

8
9 **Section 8.** Section 37-18-104, MCA, is amended to read:

10 **"37-18-104. Exemptions -- rules.** (1) This chapter does not apply to:

11 (a) veterinarians in the performance of their official duties, either civil or military, in the service of the
12 United States unless they engage in the practice of veterinary medicine in a private capacity;

13 (b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the
14 employ of this state or the United States and engaged in labors in laboratories under the direct supervision of
15 the board of livestock, Montana state university-Bozeman, or the United States;

16 (c) lawfully qualified veterinarians from other states or a foreign country meeting legally licensed and
17 registered Montana veterinarians in this state in consultation;

18 (d) a veterinarian residing on a border of a neighboring state and authorized under the laws of that state
19 to practice veterinary medicine, who is actually called to attend cases in this state but who does not open an
20 office or appoint a place to meet patients or receive calls in this state, if veterinarians licensed and registered
21 in this state are extended a like privilege to engage in the practice of veterinary medicine to the same extent in
22 the neighboring state;

23 (e) the employment of veterinary medical students who have successfully completed 3 years of the
24 professional curriculum in veterinary medicine at a college having educational standards equal to those
25 approved by the American veterinary medical association, if the students are employed by and work under the
26 immediate supervision of a veterinarian licensed and registered under this chapter; or

27 (f) a person advising with respect to or performing acts that the board defines by rule as accepted
28 livestock management practices.

29 (2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine
30 are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

(a) minimum education requirements;

(b) minimum requirements of practical experience;

(c) continuing education requirements;

(d) limitations on practices and procedures that may be performed by certified individuals;

(e) the use of specific drugs necessary for safe and proper practice of certified procedures;

(f) content and administration of the certification test, including written and practical testing;

(g) application and reexamination procedures; and

(h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the supervision of the employing veterinarian.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to [sections 1 through 6]."

NEW SECTION. Section 9. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 37, chapter 18, and the provisions of Title 37, chapter 18, apply to [sections 1 through 6].

1

2 NEW SECTION. **Section 10. Effective date.** [This act] is effective January 1, 2004.

3

4 NEW SECTION. **Section 11. Termination.** [This act] terminates January 1, 2008.

5

- END -